

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,
AT HYDERABAD

HON'BLE SRI JUSTICE V.V.S. RAO

W.P. No. 27271 OF 2005

Date: 22.12.2005

BETWEEN:

Smt. S. Kousalya

.... PETITIONER

And

1. The Commissioner, Municipal Corporation of Hyderabad, Tank Bund, Hyderabad, and others.

.... RESPONDENTS

HONOURABLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No. 27271 OF 2005

ORDER:

The petitioner is allegedly the absolute owner and possessor of the land admeasuring 477 Sq. yards with Municipal Door No.16-9-640, situated at Old Malakpet, Hyderabad. She claims to have purchased the said property under a registered sale deed dated 4.12.1965. According to the petitioner there is a 40' wide road on the Northern side and 15' wide road on Southern side of her property for public use. She alleges that the road on the Northern side is being used by the public for the past five decades. It is alleged that the third respondent commenced construction over the public road on the Northern side of the petitioner's property. Therefore, the petitioner made a representation to the Commissioner of Municipal Corporation, Hyderabad (MCH) requesting necessary action in the matter. Alleging that no such action was taken, the present writ petition is filed seeking *inter alia* a direction to the respondents 1 and 2 to prevent the illegal construction.

The learned counsel for the petitioner placed strong reliance on the sale deed dated 4.12.1965 under which she purchased the property from one Seelam Ranga

Naikamma, in support of the contention that on the Northern side of the petitioner's property there is 40" wide existing road and that the third respondent is raising construction on the road.

At the stage of preliminary hearing itself the learned Standing Counsel for MCH, Sri Ganta Rama Rao after obtaining instructions submits that the third respondent has obtained permission for construction of Ground + First floor on a plot admeasuring 65 Sq. yards, after demolishing the existing old house. He also submits that the inspecting staff found some minor deviations of setbacks. But the allegation of the petitioner that the third respondent encroached upon the 40' wide road is not correct. He also submits that necessary action is being taken insofar as the deviations are concerned.

It is the MCH, who granted permission, and after verifying the complaint, found that there is no encroachment. The controversy must end there. If the petitioner has any grievance that a public passage way is being encroached upon by a third party, the petitioner can file a suit before the appropriate authority but such a question cannot be decided in a writ petition, especially when the MCH submits that there is no encroachment by the third respondent. However, as the petitioner's representation is still pending, the first respondent may pass appropriate orders on the same, duly informing the petitioner about the action being taken by the MCH.

The Writ Petition, with the above observations, is accordingly dismissed at the admission stage.

(V.V.S. RAO, J.)

22nd December, 2005

Note: Issue C.C. in one week.

(By order) / Js.